

E '*Specially*' DECS

***A weekly email update from the Division of Exceptional Children Services
to Directors of Special Education on current issues, information and events.
March 11, 2005 - Volume 1, Number 43 and 44***

Note: E '*Specially*' DECS will not be distributed during the week of March 14th.

Question of the Week:

I keep hearing about the changes in the 2004 Reauthorization of IDEA. I know some requirements will remain the same. However, there are changes in important areas, such as discipline and secondary transition provisions. How do I handle those changes? I also hear there are brand new requirements that we've never seen before, such as the convening of a resolution meeting when a due process hearing is requested.

The directors of special education that I've talked to are concerned about how we are going to implement these changes. Most go into effect on July 1, 2005 and we're not sure what to do.

Answer:

- You are right - most of the provisions in the 2004 IDEA Reauthorization are effective on July 1, 2005. The only exceptions are for provisions on "highly qualified" which are tied to *No Child Left Behind* and were effective in December 2004.

Usually, statutes such as IDEA are enacted by Congress with the bare-bones requirements of the law but with little detail on how the law will be implemented. The details are in the regulations which are written by the Federal Department of Education after the passage of the law.

The federal 2004 IDEA regulations have not yet been shared with the public. No one is sure when the preliminary draft will be published, but estimates range from May, 2005, to July 2005, to December 2005 or beyond. Kentucky will begin drafting its new IDEA regulations after the federal IDEA regulations are final.

So what do you do in the meantime? Naturally for areas that are identical under IDEA '97 and the 2004 Reauthorization, you will continue to follow the law as set forth in the 2004 IDEA, and the Kentucky Revised Statutes and the Kentucky Administrative Regulations. The confusion will arise in areas that have been changed under the 2004 IDEA or that are brand new in 2004.

For provisions under IDEA 2004 that are not as rigorous as IDEA '97, remember that Kentucky continues to have statutes and regulations in place that are tied to

the 1997 law. (Districts also have binding policies and procedures that were written to comply with the former law.) The current Kentucky statutes and regulations that are more stringent than the current IDEA will continue to be in effect and will govern, until they are amended or repealed. Generally, Federal law overrides state law unless the state law is more stringent.

For areas of IDEA that are brand new, both the State Education Agency (KDE) and districts must comply with the new IDEA statute that becomes effective on July 1. Since final federal regulations will most likely not be in effective by July 1, both the state and the districts must look at the new law and decide how to implement the law, in the absence of regulations.

DECS is currently in the process of reviewing the 2004 IDEA to determine which areas are: (1) new, (2) changed, and (3) unchanged. DECS will share its review with districts and others to give guidance on the status of the IDEA in Kentucky on July 1, 2005. We hope to assist you in making a smooth transition to the requirements of the 2004 IDEA

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The Question of the Week will be an on-going feature of E 'Specially' DECS. If you have a special education question that you believe would be of general interest to other Directors of Special Education, email your suggestion to Sammie Lambert at slambert@kde.state.ky.us

Contact Information for E 'Specially' DECS

- Sammie Lambert at slambert@kde.state.ky.us for information on newsletter content.

- Chris Thacker at 502 564-4738 for technical difficulties in receiving E 'Specially' DECS.

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Forwarding of E 'Specially' DECS is not only allowed, it is encouraged. Please send to staff in your district who may be able to benefit from this information.